

463257

UNITED STATES DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, D.C.

JUL 27 P 3:58

In the Matter of:

POWER AVIATION SERVICES

FAA DOCKET NO. CP06WP0020
(Civil Penalty Action)

DMS No. FAA-2006-26509-7

RESPONDENT'S NOTICE OF MOTION AND
MOTION FOR CHANGE OF HEARING VENUE
TO SACRAMENTO, WITH SUGGESTED
HEARING DATE; DECLARATION OF
MICHAEL J. HARRINGTON WITH
EXHIBITS

Judge : Hon. Richard C. Goodwin
Hearing : TBA
Location: San Francisco, CA

COMES NOW POWER AVIATION SERVICES ("Respondent"), by and through counsel of record, and hereby files and serves this Notice of Motion and Motion for Transfer of Venue of Hearing to Sacramento, California, with a suggestion that the Court concurrently set the hearing date for two full court days, commencing on or after July 10, 2007.¹

This Motion is being made pursuant to Rule 13.218 of the rules of practice.

The grounds for this motion are that it would serve the

¹ This case will require about one full court day, and there is a related case of FAA v. Power Aviation Services, FAA Docket No. CP06WP0019, that can probably be tried in about one full day.

interests of fairness and justice and reduce the unnecessary expenditure of scarce judicial and party resources if the hearing venue was changed. Nearly all of the witnesses are in the Sacramento Area, as is undersigned counsel, and a hearing in downtown Sacramento would be much easier and cheaper.

The current hearing is set for San Francisco, but no date or specific address have been confirmed yet.

The San Francisco location was set by this Court's January 23, 2007 Procedural Order. At that time, Respondent's counsel was Mike Dworkin, whose office is located in downtown San Francisco.

Attached as Exhibit "1" is a true and correct copy of the web page from Power Aviation Services, listing its two locations. The company's main business operations address is in Auburn. Auburn address about 45 minutes east of the federal courthouse in downtown Sacramento. Most of the witnesses are residents or work in Auburn.

Undersigned counsel has offices in Davis, which is about 20 minutes west of downtown Sacramento. A hearing in San Francisco would require overnight stays. It takes about two hours to drive from Davis to downtown San Francisco and to find parking, assuming traffic is not completely snarled.

The FAA's main witnesses are in Sacramento or in Los

In re Power Aviation Services:
FAA Docket No. CP06WP0020
MOTION FOR CHANGE OF HEARING VENUE TO SACRAMENTO;
DECLARATION OF HARRINGTON AND EXHIBITS

Angeles, with possibly someone from the Oakland Flight Standards District Office. The LA witnesses (and FAA counsel) have to travel to Northern California, and Sacramento is easier and less expensive than getting hotels in downtown San Francisco.

A Sacramento venue would save Respondent at least \$5,000 in travel time and expenses. The business is relatively new, and cash flow is tight. The hearing location in Sacramento would greatly benefit all parties by reducing their expenses.

Respondent has attempted to meet and confer with the FAA about this proposal. Undersigned counsel left a message on Attorney Toscano's voice mail today, and faxed a letter asking for a stipulation. See Exhibit 2, a true and correct copy of said correspondence to Attorney Toscano. Counsel has not yet heard from her.

For the foregoing reasons, Respondent respectfully requests that this Honorable Court approve the (proposed) Order filed concurrently with this Motion, and transfer the hearing to Sacramento.

SUGGESTED HEARING DATE

The close of discovery is May 15, 2007, so Respondent respectfully suggests that the Court set a hearing date for July 10th or later. Respondent expects that both this case and

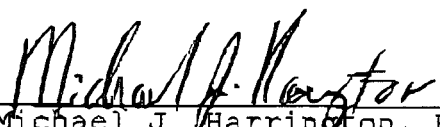
In re Power Aviation Services;
FAA Docket No. CP06WP0020
MOTION FOR CHANGE OF HEARING VENUE TO SACRAMENTO;
DECLARATION OF HARRINGTON AND EXHIBITS

Case No. FAA Docket CP06WP0019 could be tried in two full court days.

Respectfully submitted this 26th day of March, 2007

LAW OFFICES OF MICHAEL J. HARRINGTON

By:


Michael J. Harrington, Esq., CBN 144737
LAW OFFICES OF MICHAEL J. HARRINGTON
430 D Street
Davis, CA 95616
(530) 759-8440
Fax 759-8476
email: avialaw@dcn.org

Attorneys for Respondent

DECLARATION OF MICHAEL J. HARRINGTON

I, MICHAEL J. HARRINGTON, hereby state as follows:

1. I am an attorney licensed to practice law in all courts in the state of California, including the federal courts. I am in good standing and have never had my bar license suspended or revoked. I am the attorney of record for this matter and familiar with the client files.

2. Attached as Exhibit "1" is a true and correct copy of a

In re Power Aviation Services;
FAA Docket No. CP06WP0020
MOTION FOR CHANGE OF HEARING VENUE TO SACRAMENTO;
DECLARATION OF HARRINGTON AND EXHIBITS

web site page I downloaded and printed today from the Power Aviation web site, showing facility locations.

3. Attached as Exhibit "2" is a true and correct copy of my correspondence dated March 26, 2007 and faxed to Ms. Toscano earlier today. I left a voice mail for her, but she has not returned it as of the time I signed and served this Motion and Declaration.

4. The facts as stated in the Motion above are true and correct.

I DECLARE UNDER PENALTY OF PERJURY PURSUANT TO THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT, AND THAT THIS DECLARATION WAS EXECUTED THIS 26th DAY OF MARCH 2007.


Michael J Harrington

TransferMotion26.March.vpd

In re Power Aviation Services;
FAA Docket No. CP06WFO020
MOTION FOR CHANGE OF HEARING VENUE TO SACRAMENTO;
DECLARATION OF HARRINGTON AND EXHIBITS

POWER AVIATION SERVICES

FAA Repair Station DPPR608
Auburn Municipal Airport, CA

FAA Repair Station DPPD608
Vacaville Nut Tree Airport, CA

CALL US: Auburn 530 88
Vacaville 707 46

HOME

HELICOPTER
MAINTENANCE

FIXED WING
MAINTENANCE

PARTS SALES

TESTIMONIALS

LINKS

CONTACT US

Welcome to the Power Aviation Services website.
Our reputation for quality is well known.
Our experience makes us thorough.
And, safety is our #1 concern.

What We Offer:

Two Locations to Serve You

Auburn, CA

Vacaville, CA

Inspections, General & Major

Airframe Structural Repairs, Sheetmetal & Composite
Modifications, Kit Installations

Insurance Work, Estimates

Pre-Buy Surveys

Consulting, National & International

Dynamic Propeller Balancing

Dynamic Vibration Analysis

Electronic Weight & Balance

Part 135 Maintenance Services

Aircraft Management & Sales

Parts & Component O/H Sales

FULL SERVICE FOR

EXHIBIT 1

LAW OFFICES OF

MICHAEL J. HARRINGTON

PRACTICE EMPHASIZING AVIATION LAW

March 26, 2007

RECEIVEDVIA FAX TO (310) 725-6816

Lisa J. Toscano, Esq.
Office of the Regional Counsel, AWP-7
Federal Aviation Administration
P.O. Box 92007
Los Angeles, CA 90009-2007
Tel: (310) 725-7100

Re: FAA v. Power Aviation Services; FAA Docket Nos. CP06WP0019
and CP06WP0020

Dear Ms. Toscano:

This concerns transfer of the hearing venue for both of these actions.

I would like to propose that the hearing be in Sacramento instead of San Francisco, based upon the forum non conveniens doctrine codified at 28 U.S.C. § 1404.

Sacramento would be far easier and less expensive as a venue. My client has facilities in Auburn (east of Sacramento) and Vacaville (west of Sacramento). Some of your witnesses are in Sacramento (Flight Standards District Office).

My offices are located only 20 minutes from downtown Sacramento.

If the hearing is held in San Francisco, other than your one or two witnesses in Oakland, everyone would have to fight their way through traffic to downtown San Francisco, and most of us would have to stay in hotels overnight.

The Court has not set a hearing date yet, so I think the timing would be good to ask for the transfer to Sacramento.

If you agree, please sign and fax back your signature indicating your approval of this proposal, and I will prepare a stipulated Motion for Change of Venue, and proposed Order.

EXHIBIT 2

430 D Street, Davis, California 95616
(530) 759-8440 • Fax 759-8476 • E-Mail avialaw@den.davis.ca.us
(Sacramento Metropolitan Area)

Lisa J. Toscano, Esq.
March 26, 2007
Page 2

Thank you for your attention to this matter, and I am looking forward to hearing from you.

Sincerely,

LAW OFFICES OF MICHAEL J. HARRINGTON



Michael J. Harrington

MJH/bos

cc via email: Clients

Toscano26a.Mar.wpd

1 FAA v. Power Aviation Services; FAA Docket No. CP06WP0020

2
3 **PROOF OF SERVICE**

4 I am over the age of 18 and not a party to the above-
5 referenced action. My business address is 430 D Street, Davis,
6 California 95616.

7 On the date indicated below, I served the enclosed
8 document(s) described as

9
10 **RESPONDENT'S NOTICE OF MOTION AND MOTION FOR CHANGE OF HEARING
11 VENUE TO SACRAMENTO, WITH SUGGESTED HEARING DATE; DECLARATION OF
12 MICHAEL J. HARRINGTON WITH EXHIBITS**

13 on the interested parties to this action by:

14 ☒ (**MAIL**) placing true and correct copies into sealed
15 envelopes addressed as stated in the attached mailing list (mail
16 service is presumed unless some other type of service is indicated
17 next to the firm's name) with postage fully prepaid in the United
18 States mail at Davis, California;

19 ☐ (**PERSONAL**) personally delivering such document(s) to the
20 law firms/persons enumerated in the attached list;

21 ☒ (**FACSIMILE**) transmitting such document(s) to the law
22 firms/persons enumerated in the attached list; and/or

23 ☒ (**OVERNIGHT**) placing true and correct copies into the
24 Federal Express overnight delivery mail system in Sacramento,
25 California.

26 ☐ (**State**) I declare under penalty of perjury under the laws
27 of the State of California that the foregoing is true and correct.

28 ☒ (**Federal**) I declare that: ☐ I am employed in the office
of a member of the bar of this Court at whose direction this
service is being made; or ☒ I am a member of the bar of this
Court. I declare under penalty of perjury under the laws of the
United States of America that the foregoing is true and correct.

Executed on March 26, 2007 at Davis, California.

25
26 
27 Michael J. Harrington

1 FAA v. Power Aviation Services; FAA Docket No. CP06WP0020

3 SERVICE LIST

5 F, Fedxp Stephanie McClain, Hearing Docket Clerk
6 600 Independence Ave, S.W.
7 Wilbur Wright Building, Suite 2W1000
8 Washington, D.C. 20591
9 Attn: Hearing Docket Clerk, AGC-430
10 Phone: (202) 385-8229
11 Fax: 493-5020
12 (Via fax, and sent original Fed Exp for filing)

10 F, M The Honorable Richard C. Goodwin
11 Administrative Law Judge
12 Office of Hearings, M-20
13 U.S. Department of Transportation
14 400 Seventh Street, S.W., Room 5411
15 Washington, D.C. 20590
16 Attorney-Advisor: (202) 366-2130
17 Legal Assistant: 366-5121
18 Fax: 366-7536

16 F, M Lisa J. Toscano, Esq. COMPLAINANT
17 Office of the Regional Counsel, AWP-7
18 Federal Aviation Administration
19 P.O. Box 92007
20 Los Angeles, CA 90009-2007
21 Tel: (310) 725-7100
22 Fax: (310) 725-6816

21 POS.wpd

UNITED STATES DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, D.C.

_____)	FAA DOCKET NO. CP06WP0019
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In re Power Aviation Services;
FAA Docket No. CPO6WP0019
MOTION FOR CHANGE OF HEARING VENUE TO SACRAMENTO;
DECLARATION OF HARRINGTON AND EXHIBITS

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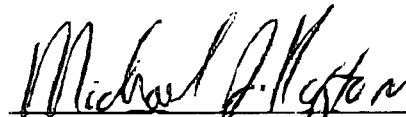
In re Power Aviation Services;
FAA Docket No. CP06WP0019
MOTION FOR CHANGE OF HEARING VENUE TO SACRAMENTO;
DECLARATION OF HARRINGTON AND EXHIBITS

Case No. FAA Docket CP06WP0020 could be tried in two full court days.

Respectfully submitted this 26th day of March, 2007

LAW OFFICES OF MICHAEL J. HARRINGTON

By:


Michael J. Harrington, Esq., CBN 144737
LAW OFFICES OF MICHAEL J. HARRINGTON
430 D Street
Davis, CA 95616
(530) 759-8440
Fax 759-8476
email: avialaw@dcn.org

Attorneys for Respondent

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I, MICHAEL J. HARRINGTON, hereby state as follows:

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In re Power Aviation Services;
FAA Docket No. CP06WP0019
MOTION FOR CHANGE OF HEARING VENUE TO SACRAMENTO;
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Michael G. Harrington

MotiontoSetCaseDeadlines26.Mar.wpd

In re Power Aviation Services;
FAA Docket No. CP06WFO019
MOTION FOR CHANGE OF HEARING VENUE TO SACRAMENTO;
DECLARATION OF HARRINGTON AND EXHIBITS

POWER AVIATION SERVICES

FAA Repair Station DPPR608
Auburn Municipal Airport, CA

FAA Repair Station DPPD609
Vacaville Nut Tree Airport

CALL US: Auburn 530 88
Vacaville 707 46

HOME

HELICOPTER
MAINTENANCE

FIXED WING
MAINTENANCE

PARTS SALES

TESTIMONIALS

LINKS

CONTACT US

Welcome to the Power Aviation Services website.
Our reputation for quality is well known.
Our experience makes us thorough.
And, safety is our #1 concern.

What We Offer:

Two Locations to Serve You

Auburn, CA

Vacaville, CA

Inspections, General & Major

Airframe Structural Repairs, Sheetmetal & Composite

Modifications, Kit Installations

Insurance Work, Estimates

Pre-Buy Surveys

Consulting, National & International

Dynamic Propeller Balancing

Dynamic Vibration Analysis

Electronic Weight & Balance

Part 135 Maintenance Services

Aircraft Management & Sales

Parts & Component O/H Sales

FULL SERVICE FOR

FIXED WING & ROTORWING

EXHIBIT 1

LAW OFFICES OF
MICHAEL J. HARRINGTON
PRACTICE EMPHASIZING AVIATION LAW

March 26, 2007

FAAXEDVIA FAX TO (310) 725-6816

Lisa J. Toscano, Esq.
Office of the Regional Counsel, AWP-7
Federal Aviation Administration
P.O. Box 92007
Los Angeles, CA 90009-2007
Tel: (310) 725-7100

Re: FAA v. Power Aviation Services; FAA Docket Nos. CP06WP0019
and CP06WP0020

Dear Ms. Toscano:

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EXHIBIT 2

Lisa J. Toscano, Esq.

March 26, 2007

Page 2

Thank you for your attention to this matter, and I am looking forward to hearing from you.

Sincerely,

LAW OFFICES OF MICHAEL J. HARRINGTON



Michael J. Harrington

MJH/bos

cc via email: Clients

Toscano26a.Mar.wpd

1 FAA v. Power Aviation Services; FAA Docket No. CP06WP0019

2 **PROOF OF SERVICE**

3
4 I am over the age of 18 and not a party to the above-
5 referenced action. My business address is 430 D Street, Davis,
6 California 95616.

7 On the date indicated below, I served the enclosed
8 document(s) described as

9 NOTICE OF MOTION AND MOTION FOR CHANGE OF HEARING VENUE TO
10 SACRAMENTO, AND SETTING HEARING DATE; DECLARATION OF MICHAEL J.
11 HARRINGTON, AND EXHIBITS

12 on the interested parties to this action by:

13 [X] (MAIL) placing true and correct copies into sealed
14 envelopes addressed as stated in the attached mailing list (mail
15 service is presumed unless some other type of service is indicated
16 next to the firm's name) with postage fully prepaid in the United
17 States mail at Davis, California;

18 [] (PERSONAL) personally delivering such document(s) to the
19 law firms/persons enumerated in the attached list;

20 [X] (FACSIMILE) transmitting such document(s) to the law
21 firms/persons enumerated in the attached list; and/or

22 [X] (OVERNIGHT) placing true and correct copies into the
23 Federal Express overnight delivery mail system in Sacramento,
24 California.

25 [] (State) I declare under penalty of perjury under the laws
26 of the State of California that the foregoing is true and correct.

27 [X] (Federal) I declare that: [] I am employed in the office
28 of a member of the bar of this Court at whose direction this
service is being made; or [X] I am a member of the bar of this
Court. I declare under penalty of perjury under the laws of the
United States of America that the foregoing is true and correct.

Executed on March 26, 2007 at Davis, California.

25
26 
27 Michael J. Harrington

1 FAA v. Power Aviation Services; FAA Docket No. CP06WP0019

3 SERVICE LIST

5 F. Fedxp Stephanie McClain, Docket Clerk COMPLAINANT
800 Independence Ave, S.W.
6 Washington, D.C. 20591
Attn: Hearing Docket Clerk, AGC-430
7 Wilbur Wright Building, Room 2W1000
Phone: (202) 385-8229
8 Fax: 493-5020
9 (Via fax, and sent original Fed Exp for filing)

10 F, M The Honorable Richard C. Goodwin
11 Administrative Law Judge
12 Office of Hearings, M-20
Room 5411
13 U.S. Department of Transportation
400 Seventh Street, S.W.
14 Washington, D.C. 20590
Attorney-Advisor: (202) 366-2130
15 Legal Assistant: 366-5121
Fax: 366-7536

16 F, M Lisa J. Toscano, Esq. COMPLAINANT
17 Office of the Regional Counsel, AWP-7
18 Federal Aviation Administration
P.O. Box 92007
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Tel: (310) 725-7100
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22 pos.wpd

UNITED STATES DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, D.C.

_____)	FAA DOCKET NO. CP06WP0019
)	(Civil Penalty Action)
In the Matter of:)	
)	DMS No. FAA-2006-26508
)	
POWER AVIATION SERVICES)	[PROPOSED] ORDER GRANTING MOTION
)	FOR CHANGE OF HEARING VENUE TO
)	SACRAMENTO, AND SETTING HEARING
)	DATE
)	
)	Judge : Hon. Richard C. Goodwin
)	Hearing : TBA
_____)	Location: San Francisco, CA

TO THE PARTIES AND COUNSEL OF RECORD:

The Court has reviewed the Motion for Change of Hearing Venue to Sacramento, and Suggestion for hearing date, and finds that good cause exists to GRANT the Motion.

IT IS ORDERED that this matter be set for a one day hearing in Sacramento, California to take place on _____, 2007 at a location to be determined later.

Dated this ____ day of March 2007

The Honorable Richard C. Goodwin
Administrative Law Judge

OrderMotionSetDeadlines25.Mar.wpd

In re Power Aviation Services;
FAA Docket No. CP06WP0019;
ORDER GRANTING MOTION FOR CHANGE OF
HEARING VENUE TO SACRAMENTO AND SETTING
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1 FAA v. Power Aviation Services; FAA Docket No. CP06WP0019

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19 Tel: (310) 725-7100
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22 POS.wpd